

**DETAILED ACTION**

1. Claims 21-34 are pending in this application.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 21-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Macrae et al (US 2003/0208756).

Regarding Claims 21 and 27, Macrae discloses a video apparatus with corresponding method for providing an advertisement dynamically along with an electronic program guide (EPG) (FIG.1) having information of programs in response to movement of a highlighted element in the electronic program guide, the highlighted element being movable within the electronic program guide in response to a user key entry made via a user control device of the video apparatus (Para 197- Para 200), the video apparatus being operative to enable performance of steps comprising: receiving a plurality of advertisements, each one of the received advertisements being associated with at least one program in the electronic program guide and including a respective descriptor for identifying a program; storing the received advertisements (Para 327); monitoring the movement of the highlighted element in the electronic program guide; determining a next program in the electronic program guide to be reached by the highlighted

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element based on the monitoring step (FIG.7, FIG.8; Para 331-Para 332; when a sports theme guide is selected in FIG.7 and scrolling through the sports theme guide in FIG.8); and displaying one of the stored advertisements representing an advertisement for the determined next program before the determined next program has been reached by the highlighted element (Para 332 lines 1-14; displaying an automobile advertisement related to a sports related program before reaching the determined next program also associated with sports theme; an advertisement corresponding to each theme; therefore, one of the stored advertisements for different themes also representing an advertisement for the determined next program under that theme).

Regarding Claims 22 and 28, Macrae further discloses identifying which of the advertisements are targeted advertisements for display during the movement of the highlighted element in the electronic program guide, wherein the displayed advertisement is one of the identified targeted advertisements (Para 332; identifying an automobile advertisement when scrolling through the sports theme guide).

Regarding Claims 23 and 29, Macrae further discloses a channel descriptor for a respective one of the advertisements (FIG.8, a channel descriptor such as TNT).

Regarding Claims 24 and 30, Macrae further discloses the displaying step is performed in response to the channel descriptor associated with the displayed advertisement matching a channel associated with the determined next program (the automobile advertisement matching a sports channel associated with the determined next program).

Regarding Claims 25 and 31, Macrae further discloses a time descriptor (FIG.8, programs listed with time information).

Regarding Claims 26 and 32, Macrae further discloses the displaying step is performed in response to the channel descriptor associated with the displayed advertisement matching a channel associated with the determined next program and the time descriptor associated with the displayed advertisement matching a current time (FIG.8; the time descriptor associated with the displayed advertisement such as on golden pond is 8:00 pm matching a current time above 8:00 pm).

Regarding Claims 33 and 34, Macrae inherently discloses a step of enabling a user to view the determined next program in response to a user input responding to the displayed advertisement for the determined next program (user is able to view the determined next program in response to a user input, while displaying the corresponding advertisement).

#### ***Response to Arguments***

3. Applicant's arguments filed 06/11/2009 have been fully considered but they are not persuasive.

##### In reference to Applicant's arguments

(a) In response, Applicants note that the cited example provided in paragraphs [0331]-[0332] of Macrae simply links certain advertisements to certain EPG themes. However, the cited example of Macrae fails to disclose or suggest, inter alia, the step of "displaying one of the stored advertisements representing an advertisement for the determined next program before the determined next program has been reached by the highlighted element" (emphasis added) as recited by amended independent claims 21 and 27. Accordingly, Applicants submit that independent claims 21 and 27, and their respective dependent claims, are deemed novel and non-obvious over Macrae, and withdrawal of the rejection is respectfully requested.

##### Examiner's response

(a) The Examiner respectfully disagrees with Applicant's arguments. Macrae discloses an embodiment of a particular advertisement corresponding to each theme when display theme program guide, such as automobile advertisement for a sports theme; therefore, one of the stored

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advertisements for different themes also representing an advertisement for the determined next program will display under that theme before selection.

***Conclusion***

4. Claims 21-34 are rejected.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Correspondence Information***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:30-19:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through

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Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fhp

/Joseph P. Hirl/  
Supervisory Patent Examiner, Art Unit 2426  
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